

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA     )  
                                      )  
                  V.                     ) CR. NO. 05-10222-DPW  
                                      )  
DARNELL UPSHAW                    )

**JOINT-MOTION TO EXTEND PRETRIAL FILING/DISCLOSURE DATES**

The United States and defendant Darnell Upshaw ("Upshaw") jointly move to continue the dates by which they must comply with parts 1A and B(1)-(3) of the Court's Trial Order dated January 13, 2006, and by which the government must produce the information identified in Local Rule 116.2(B)(2)(that has not already been produced), from May 1, 2006, to May 11, 2006. In support of their motion, the parties state the following:

1. The parties are in ongoing negotiations. It is reasonably likely that the case will be resolved without a trial. Allowance of the motion will prevent the parties from conducting possibly unnecessary pretrial preparation.

2. It is the policy of the United States Attorney's Office to decline to move to give a defendant the third Acceptance of Responsibility point pursuant to U.S.S.G. §3E1.1 unless a defendant has notified the government more than twenty-one days before trial of his intention to change his plea because the government will have begun to prepare for trial by, among other things, making the twenty-one-day-before-trial production required by Local Rule 116.2(B)(2). Allowing the government the

extra time to comply with its pre-trial discovery obligations under L.R. 116.2 would permit the parties to complete plea negotiations, and, assuming a change of plea, the government to move to grant the defendant the third Acceptance of Responsibility point pursuant to U.S.S.G. §3E1.1.

3. The government believes it has previously produced all discovery required by Local Rule 116.2(B)(2). The requested extension would permit the government to delay its customary "due diligence" investigation (in order to make certain it has satisfied its twenty-one-days-before-trial discovery obligations) until after the defendant has made a final decision whether to change his plea.

Respectfully submitted,

DARNELL UPSHAW  
by his counsel

MICHAEL J. SULLIVAN  
United States Attorney

/s/David J. Apfel,  
Anita B. Bapooji, Esq. (C.F.B.)  
Goodwin Proctor LLP  
Exchange Place  
53 State Street  
Boston, MA 02109

By: /s/CHRISTOPHER F. BATOR  
Assistant U.S. Attorney

Dated: April 28, 2006

CERTIFICATE OF SERVICE

I, CHRISTOPHER F. BATOR, certify that I have served a copy of the above upon all counsel by e-filing notice.

/s/CHRISTOPHER F. BATOR  
Assistant U.S. Attorney

Dated: April 28, 2006